

A nonprofit organization composed of members of a particular industry to develop new and improved uses for existing products of the industry is not exempt under section 501(c)(3) of the Code but may qualify for exemption under section 501(c)(6).

Advice has been requested whether an association organized and operated as described below qualifies for exemption from Federal income tax under either section 501(c)(3) or section 501(c)(6) of the Code.

The nonprofit association composed of members of a particular industry was formed to develop new and improved uses for existing products of the industry. The association's income is from membership dues and assessments.

The association itself conducts no scientific research. It contracts with various research organizations, institutes, and universities for specific research projects selected by a committee of technical experts chosen from the association's membership. The results of these projects are published and made available to the interested public.

Patents and trademarks that may result from research projects sponsored by the association are licensed royalty-free to all applicants meeting the quality standards set by the association.

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of organizations organized and operated exclusively for scientific purposes.

Section 1.501(c)(3)-1(d)(1)(ii) of the Income Tax Regulations provides that an organization is not organized or operated exclusively for any purpose set forth in section 501(c)(3) of the Code unless it serves a public rather than a private interest.

Section 1.501(c)(3)-1(d)(5) of the regulations provides that the term 'scientific' as used in section 501(c)(3) of the Code includes the carrying on of scientific research in the public interest. For research to be scientific within the meaning of section 501(c)(3), it must be carried on in furtherance of a scientific purpose.

Section 1.501(c)(3)-1(d)(5)(iv) of the regulations provides that an organization will not be regarded as organized and operated for the purpose of carrying on scientific research in the public interest and will not qualify for exemption under section 501(c)(3) of the Code as a scientific organization if that organization will perform research only for persons which are (directly or indirectly) its creators and which are not described in section 501(c)(3).

The association's research projects may result in new

products and processes that benefit the public, but such benefit is secondary to that derived by the association's members. The association's members select research projects in order to increase their sales by creating new uses and markets for their product. Therefore, it is held that the primary purpose of the association's research is to serve the private interests of its creators, rather than the public interest. Accordingly, the association does not qualify for exemption from Federal income tax under section 501(c)(3) of the Code.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the regulations requires that in order to qualify for exemption under section 501(c)(6) an organization's activities should be directed to the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

No services are performed by this association for any individual member, nor are any of the association's patents and trademarks licensed to any member on an exclusive basis. Since the association's activities are directed towards improving the business conditions of the industry, in general, it is held that the organization is exempt from Federal income tax under section 501(c)(6) of the Code.

Even though an organization considers itself within the scope of the Revenue Ruling, it must file an application on Form 1024, Exemption Application, in order to be recognized by the Service as exempt under section 501(c)(6) of the Code. The application should be filed with the District Director of Internal Revenue for the district in which is located the principal place of business or principal office of the organization. See section 1.501(a)-1 of the regulations.